

REMARKS

In the Action claims 34-58 are rejected. In response, independent claims 34 and 47 are amended to clarify that the continuous matrix is formed by melting the polymers and that the carpet fibers are not melted. These amendments are supported by the specification and claims as originally filed. The pending claims in this application are claims 34-58 with claims 34, 47 and 49 being independent.

In view of these amendments and the following comments, reconsideration and allowance are requested.

Rejection Over Desai et al.

Claims 34-48 are rejected as being anticipated by US Patent Publication No. 2002/0025414 to Desai et al. Desai is cited as allegedly disclosing each feature of the claimed invention.

Desai does not disclose or suggest a continuous phase of a first polymer from the carpet backing and a flexible second polymer as recited in claim 34 and claim 47. Desai also does not disclose or suggest melting the first and second polymers to form a continuous phase. Anticipation requires that each feature of the claimed invention be found in the cited reference in the order of the claimed invention. Since Desai does not disclose these features, the claims are not anticipated.

Moreover the Action clearly fails to identify where each feature of the independent claim or the dependant claims are found in Desai. Accordingly the Action has failed to establish that each of the claims is anticipated.

The passages referred to in the Action do not disclose a continuous phase or that a continuous phase is or can be formed. The Examiner's attention is directed to paragraph 0038 of Desai and particularly the sentence bridging pages 3 and 4. Desai clearly discloses forming "powder" particles from the various materials which are applied to a substrate as a

uniform layer of particles having a uniform thickness. The substrate can be a release paper, a belt or the bottom surface of a primary backing. Once the powder layer is formed, the powder particles are fused by heating, but are not melted to form a uniform matrix. As expressly stated therein, fusing or fused “is understood to mean that the recycled material, preferably a powder, is not completely reduced to a liquid state, like liquid plasitsol, but instead, is the joining of the individual particles or granules” (emphasis added). Thus, Desai expressly does not melt the copolymers and does not form a continuous phase as in the claimed invention.

Desai is relevant to the extent that a material is formed from recycled carpet materials. However, Desai does not disclose or suggest the claimed final product, the method of forming the product or the final form of the materials used to form the claimed matrix. Thus, the resulting product of Desai is not the same as the claimed uniform matrix so that independent claim 34 is not anticipated. The product of Desai is only a mass of fused particles.

The depended claims are also not anticipated as depending from an allowable base claim are for reciting additional features of the invention that are not disclosed or suggested in the art of record.

The Action refers to paragraph 0032 as allegedly disclosing the claimed fiber length of the carpet scrap. This passage of Desai is taken out of context and does not disclose that the carpet pieces having a length of $\frac{1}{4}$ to $\frac{1}{2}$ inch are used in the Desai process or the final product. When read as whole, it is clear that the product of Desai is formed by fusing a “powder” of the various materials. Paragraph 0032 discloses only that the “chunks” are reduced to smaller size. There is no disclosure or suggestion that these $\frac{1}{4}$ pieces are used in forming the final product. In contrast, the methods disclosed in Desai clearly further reduce the $\frac{1}{4}$ inch pieces to form the “powder” by grinding or other method. As specifically

disclosed on page 3 paragraph 0034 the preferred powder has a particle size of 3,000 μ or less and more preferably 1500 μ or less. Therefore the “powder” of Desai does not have fibers with a length of about 1/8 to 2 inches as apparently suggested in the Action.

Desai clearly discloses reducing the carpet to a powder and optionally removing the fibers from the carpet pieces. Desai further discloses reducing the carpet pieces through several steps to obtain the desired particle size. Such particle size reduction steps inherently reduce the length of any fibers remaining on the carpet pieces to a size corresponding to the particle size. There is no suggestion in Desai that the particle size can be reduced to 3000 μ or less without also reducing the fiber length. Accordingly Desai does not disclose a carpet fiber length as in claim 37.

Desai also fails to disclose the matrix including a polyvinyl chloride plasticizer as in claim 35 or a polyethylene copolymer as in claim 36 in combination with the features of claim 34.

Desai does not disclose a matrix being a homogeneous mixture of polyvinyl chloride and discrete carpet fibers having a length of 1/8 to 2 inches as in claim 37. As discussed above the product of Desai comprises fused particles that are formed without liquefying the polymer materials. Thus, Desai can not have a homogenous mixture of PVC as claimed so that claim 37 is not anticipated.

Desai further fails to disclose or suggest the polymeric fibers of claim 38, the amount of the PVC of claim 39, or the Shore hardness of claim 40 either alone or in combination with the features of claim 34. The Action does not identify where Desai allegedly discloses these features in a manner to establish anticipation.

Desai also does not disclose the carpet scrap of claim 41, the specific plasticizer of claim 42, the amount of the carpet fibers of claim 43, the amount of the PVC from the carpet

as in claim 44 and claim 45, the first polymer being PVC as in claim 46 or the amounts of the materials of claim 48 in combination with the features of claim 34 or 47.

In view of the above comments and the deficiencies of the Desai patent, the claims are not anticipated.

The Rejection over Desai and Young

Claims 49-58 are rejected as being obvious over Desai as in the previous rejection in view of US Patent No. 5,895,071 to Young et al. Young is cited for disclosing an extrusion process for forming a finished product.

For the reasons discussed above, Desai does not disclose or suggest the claimed matrix and is not capable of producing the claimed matrix. Desai expressly discloses that the final product is formed by “fusing” the powder particles together without melting the polymers to a liquid form. Desai expressly discloses forming a product where the particles are fused together such that the resulting fused particles do not form a uniform substantially continuous matrix. In contrast Desai expressly avoids melting the components, and thus, avoids forming a continuous matrix.

Young is relevant to the extent that a process is disclosed for extruding a mixture of various components. Young is specifically directed to forming a mixture from a number of different polymeric components and then heating and melting the mixture to form a homogeneous polymer blend. There is no suggestion that the polymer blend contains a fiber that has not melted. To the contrary, Young is directed to a process that heats the materials to melt all of the materials to form the homogeneous polymer blend. This has no relation to the claimed invention or to the process of Desai.

Moreover, it would not have been obvious to one skilled in the art to use the mixture of Desai in the process of Young. Even if one were to do so, the resulting product would

not be the claimed invention and would not result in a product without melting the fibers or reducing the fiber length as specifically recited in claim 49.

Furthermore, Desai is specifically directed to forming a product by fusing the powder particles that are formed as a continuous and uniform layer. There is no suggestion to one skilled in the art to feed the mixture into an extruder which would not product a uniform layer of powder particles and would not result in fused particles. Accordingly, claim 49 is not obvious over the combination of Desai and Young.

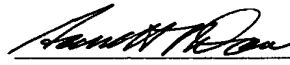
The dependent claims are also not obvious as reciting additional features of the invention that are not disclosed or suggested in the art of record. As noted above, the cited art does not disclose or suggest the amount of the components as in claim 50, 51 and 58 in combination with the method steps of claim 49.

The art of record also fails to disclose a uniform matrix of the melted polyvinyl chloride and an unmelted fiber component as in claim 52 and claim 57. Neither Desai nor Young disclose this feature. Accordingly, claims 52 and 57 would not have been obvious.

The cite patents further fail to disclose the fiber content of claim 53, the step of reducing the carpet scrap to pieces of up to 2 inches as in claim 54, the temperature of claim 55 or the Shore Hardness of claim 56 in combination with the steps of claim 49.

In view of the above comments and the deficiencies of the cited art, the claims are not anticipated by or obvious over the art of record. Accordingly reconsideration and allowance are requested.

Respectfully submitted,



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